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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12 KUAN HOW YANG,)
JIN NING YANG,) No. C 07-2870 HRL
13 Plaintiffs,)
14 v.) ANSWER
15 MICHAEL CHERTHOFF, Secretary of the)
Department of Homeland Security;)
EMILIO T. GONZALEZ, Director of)
17 U.S. Citizenship and Immigration Services;)
CHRISTINA POULOS, Director of California)
18 Service Center, U.S. Citizenship and Immigration)
Services;)
19 ROBERT S. MUELLER, Director)
of the Federal Bureau of Investigation;)
20 Defendants.)
21

22 The Defendants hereby submit their answer to Plaintiffs' Original Complaint for Writ in the
23 Nature Mandamus and Declaratory Judgment.

24 1. Paragraph One consists of plaintiffs' characterization of this action, to which no responsive
25 pleading is required; however, to the extent a responsive pleading is necessary, defendants deny
26 the allegation that they have improperly withheld action on the applications for adjustment of
27 status to plaintiffs' detriment.

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PARTIES

2. Defendants admit the allegations in Paragraph Two.
 3. Defendants admit the allegations in Paragraph Three.
 4. Defendants admit the allegations in Paragraph Four.
 5. Defendants admit the allegations in Paragraph Five.
 6. Defendants admit the allegations in Paragraph Six.

JURISDICTION

8 7. Paragraph Seven consists of plaintiffs' allegation regarding jurisdiction, to which no
9 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,
10 defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph
11 Seven.

VENUE

13 8. Paragraph Eight consists of plaintiffs' allegations regarding venue, to which no responsive
14 pleading is required; however, to the extent a responsive pleading is deemed necessary, the
15 defendants deny the allegations in Paragraph Eight.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Defendants deny the allegations in Paragraph Nine.

CAUSE OF ACTION

19 10. Defendants admit the allegations in Paragraph Ten.

20 11. Defendants admit the allegations in Paragraph Eleven.

21 12. Defendants admit the allegations in Paragraph Twelve.

22 13. Defendants admit the allegations in Paragraph Thirteen.

23 14. Defendants admit the allegations in Paragraph Fourteen.

24 15. Defendants admit the allegations in Paragraph Fifteen.

25 16. Defendants deny the allegations in Paragraph Sixteen.

26 17. Defendants deny the allegations in Paragraph Seventeen.

27 18. Defendants are without sufficient information to admit or deny the allegations in Paragraph Eighteen.

28 Paragraph Eighteen.

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1 19. Defendants deny the allegations in Paragraph Nineteen.

2 20. Defendants deny the allegations in Paragraph Twenty.

3 **PRAYER**

4 21. Paragraph Twenty-One consists of plaintiffs' prayer for relief, to which no admission or
5 denial is required; to the extent a responsive pleading is deemed to be required, defendants deny
6 this paragraph.

7 **FIRST AFFIRMATIVE DEFENSE**

8 _____Plaintiffs' complaint fails to state a claim upon which relief may be granted.

9 **SECOND AFFIRMATIVE DEFENSE**

10 The court should dismiss the action for lack for subject matter jurisdiction.

11 WHEREFORE, Defendants pray for relief as follows:

12 That judgment be entered for defendants and against plaintiffs, dismissing plaintiffs'
13 Complaint with prejudice; that plaintiffs take nothing; and that the Court grant such further relief
14 as it deems just and proper under the circumstances.

15 Dated: August 6, 2007

Respectfully submitted,

16 SCOTT N. SCHOOLS
United States Attorney

17
18 /s/
19 EDWARD A. OLSEN
Assistant United States Attorney
20 Attorneys for Defendants
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